

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HENRY JAMES,

Plaintiff,

v.

ASIAN FAMILY MARKET, *et al.*,

Defendants.

CASE NO. 2:23-cv-00212-RSL

ORDER REGARDING SERVICE

This matter comes before the Court on plaintiff’s “Motion for Service by U.S. Marshal.” Dkt. # 16. Pursuant to Federal Rule of Civil Procedure 4(c)(1) and (m), “plaintiff is responsible for having the summons and complaint served” within 90 days of the filing of the complaint.<sup>1</sup> Where, as here, plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. §1915, the Court must, at plaintiff’s request, order that service be made by the United States Marshal Service under Rule 4(c)(3).

The Court takes plaintiff’s motion under advisement to allow time to attempt a more efficient and cost-effective method of service. Defendants have “a duty to avoid


<sup>1</sup> Plaintiff objects to the fact that certain defendants appeared without being served. He requests a hearing to determine how they were informed of the lawsuit and whether it was done “illegally, maliciously, corruptly or in violation of the federal rules . . .” Dkt. # 16 at 2. Once filed, plaintiff’s complaint became a matter of public record, available to all, including the named defendants. Nor is there any rule of procedure or practice which precludes a defendant from appearing in the litigation as soon as he or she becomes aware of it. Such appearance can be entered without waiving objections to service and allows the defendant to keep track of filings in the case. Plaintiff’s objection to counsels’ appearance is overruled and his request for a hearing is denied.

unnecessary expenses of serving the summons” and will be given an opportunity to waive service under Rule 4(d)(1). The Clerk of Court is therefore directed to send by first class mail the following documents to the defendants at the addresses identified in Dkt. # 7: a copy of plaintiff's complaint, a copy of this Order, a copy of the notice and waiver request appended to Rule 4, two copies of the waiver of service of summons form, and a prepaid means of returning the form. Defendants shall have thirty (30) days from the date on which the notice was sent to return the enclosed waiver of service of summons.

A defendant who timely returns the signed waiver shall have sixty (60) days after the date designated on the notice of lawsuit to file and serve an answer to the complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure. A defendant who fails to timely return the signed waiver will be personally served with a summons and complaint, and may be required to pay the full costs of such service, pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been personally served must file an answer or motion permitted under Rule 12 within thirty (30) days after service.

The Clerk of Court is further directed to renote plaintiff's request for service by the Marshal on the Court's calendar for Friday, June 23, 2023.

Dated this 16th day of May, 2023.

  
Robert S. Lasnik  
United States District Judge